

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Tony Dejuan Jackson,

Case No. 22-cv-3034 (PAM/TNL)

Plaintiff,

v.

ORDER

Steve Simon, State of Minnesota
Secretary of State; and Paul Schnell,
Commissioner of Minnesota Department
of Corrections,

Defendants.

Plaintiff Tony Dejuan Jackson, a prisoner, did not pay the filing fee for this case, but instead applied for *in forma pauperis* (“IFP”) status. *See* ECF No. 2. This matter is now before the Court for consideration of Jackson’s IFP application.

A person unable to pay the filing fees for a civil action in federal court may apply for IFP status. *See* 28 U.S.C. § 1915. That said, restrictions are placed on prisoners who seek IFP status. For example, prisoners granted IFP status are not entitled to a full waiver of the filing fee, but instead are merely permitted to pay that filing fee in installments over time. *See* 28 U.S.C. § 1915(b). In addition,

[i]n no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g).

Jackson repeatedly has been found to have incurred at least three “strikes” for purposes of § 1915(g). *See Jackson v. FindJodi.com, Inc.*, No. 21-CV-1777 (SRN/DTS), 2022 WL 1050354, at *1 (D. Minn. Mar. 23, 2022) (collecting cases). This Court agrees with the analysis in those cases and finds that Jackson has “struck out” of federal court. Moreover, the complaint—which seeks the restoration of Jackson’s voting rights during his term of imprisonment—does not establish that Jackson “is under imminent danger of serious physical injury.”¹ 28 U.S.C. § 1915(g).

Accordingly, § 1915(g) bars Jackson from proceeding IFP in this litigation, and his IFP application is denied on that basis. If Jackson wishes to pursue this action, he must pay the full \$402 filing fee by **no later than December 30, 2022**, failing which this Court will recommend that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b). Jackson should note, however, that even if he pays the full filing fee in a timely manner, his complaint will still be reviewed pursuant to 28 U.S.C. § 1915A to determine whether it states a cause of action on which relief can be granted.

¹ Jackson does refer in his complaint to “toxic conditions of confinement” at the prison where he is now confined, *see* Compl. ¶ 16 [ECF No. 1], but the actual claims that Jackson raises in the complaint, which concern restoration of his voting rights, are entirely unrelated to the allegedly unlawful conditions. For Jackson to invoke the “imminent danger” exception to § 1915(g), “there must be a nexus between the imminent danger . . . and the legal claims asserted in his complaint.” *Pettus v. Morganthau*, 554 F.3d 293, 297 (2d Cir. 2009). In any event, it is overwhelmingly doubtful that Jackson could proceed both with claims related to his right to vote *and* with claims related to the conditions of his confinement in a single action. *See* Fed. R. Civ. P. 20(a)(2); *George v. Smith*, 507 F.3d 605, 607-08 (7th Cir. 2007).

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED THAT:**

1. The application to proceed *in forma pauperis* of plaintiff Tony Dejuan Jackson [ECF No. 2] is **DENIED**.
2. Jackson must pay the full \$402 filing fee for this action by **no later than December 30, 2022**, failing which this Court will recommend that this action be dismissed without prejudice for failure to prosecute.

Dated: December 12, 2022

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

Jackson v. Simon et al.
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